

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 18,285
)
Appeal of)
)

INTRODUCTION

The petitioner appeals a decision by the Department of Prevention, Assistance, Transition, and Health Access (PATH) terminating her benefits under the Medicaid program due to excess income.

FINDINGS OF FACT

1. The petitioner is a sixty-three-year-old woman who is married to a disabled man. He receives \$1,090 per month from the Social Security Administration and \$350 per month from a pension. The petitioner receives \$402 per month from the Social Security Administration and makes \$24 per month as a day care provider.

2. The petitioner was notified on January 9, 2003 that her Medicaid benefits would cease due to excess income. She was advised that she could be eligible for benefits again if she incurred \$5,959.80 in medical bills during the six-month period from February 1, 2003 to August 1, 2003.

3. PATH figured the petitioner's eligibility for traditional Medicaid by adding together the unearned income (pension and Social Security payments) of the petitioner and her spouse and deducting \$20 from that amount. The remainder, \$1,842, was added to the petitioner's gross earned income which was zero after her \$24.00 income was subjected to a \$65.00 disregard. The \$1,842 in countable income was compared to a \$766 per month maximum for a couple in the Medicaid program and found to be in excess. The "spend-down" amount was calculated by determining the difference between the countable income (\$1,842) and the maximum (\$766) or \$1,076 and multiplying that amount by six months resulting in \$6,456. From that amount PATH deducted the cost of the husband's Medicare premium for six months, \$352.20, and the couple's over the counter medication expenses of \$144 for a six month period. The result was \$5,959.80 which the petitioner had to incur before becoming eligible for Medicaid.

4. The petitioner does not disagree with the income figures used in the above calculation. However, she feels that she should be found eligible under PATH's "working disabled" program. At her request, PATH calculated the petitioner's eligibility for Medicaid under that program and determined that the petitioner was still ineligible.

5. The petitioner's eligibility under the working disabled program was determined by using the same net income figure, \$1,842 per month, and comparing it to an amount that is 250 percent of the federal poverty level. PATH used \$2,525 as the figure for a family of two. As the petitioner's income was under that amount, all of the petitioner's social security disability benefit (\$407) was deducted from the net amount for a new figure of \$1,435 per month. All of her earned income was also disregarded for a total countable income of \$1,435 per month. PATH compared that amount to the protected income level for a two-person household, \$766, and found it was still in excess. The petitioner was determined to be ineligible under that program and was notified that she still had to meet a spend-down under the traditional Medicaid program to become eligible.

ORDER

The decision of PATH is affirmed.

REASONS

Under the traditional Medicaid regulations, eligibility for an applicant is determined by combing the unearned income of the applicant and her non-applicant spouse who resides with her and subjecting that income to a \$20 disregard. M243.1(1)

and (2). At that point, all earned income is added together and subjected to a \$65 deduction as well as one-half of the remaining amount. M243.1(5),(7) and (9). These amounts are combined to obtain the couple's net countable income.

M243.1(14). That net countable income is then compared to the highest applicable income test for a two-person household which is \$766 per month. M250, P-2420B-1. If the income is in excess of that amount, the applicant is not eligible.

M250. The facts show that PATH followed these rules in calculating the petitioner's eligibility under the traditional Medicaid regulations.

PATH also has a "working disabled" Medicaid program which allows additional deductions for persons whose net income is below 250 percent of the poverty level. M200(16). For a two-person family, that level is \$2,525 per month. P-2420B1. That program allows a disregard of all the earnings plus up to \$500 in social security benefits of the working disabled member. Id. If the net income is below the maximum level (Protected Income Level, or PIL) for a two person family of \$766 (See P2420B1), the individual can still be eligible for Medicaid. PATH correctly applied these rules in determining the petitioner's eligibility for "working disabled" Medicaid. Unfortunately, even with her social security and income

deducted the household's income was still in excess of the \$766 maximum per month.

The only way the petitioner can obtain Medicaid at this point is by "spending down" the amount by which her income is in excess of the maximum amount. M400. That amount is calculated by using the difference between the countable income and the PIL over a six-month accounting period. M402 and M414. Under the regulations, the petitioners are allowed prospective deductions for health insurance payments and over the counter medications in figuring the final spend-down to be met. M414. Again PATH correctly used these regulations in determining the amount of the spend-down.

As PATH's decision is correctly based upon its regulations, the Board is bound to uphold the result. Fair Hearing Rule 17, 3 V.S.A. § 3091(d). The petitioner's income has made her eligible for the Vscript medication discount program but is in excess of the monthly maximum for VHAP (\$1,515 for a two person family) which would provide her with hospital and physician coverage. The petitioner is urged to keep track of her medical expenses and to provide them to PATH for review for meeting her spend-down in the Medicaid program.

#